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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/155,740 02/27/98 LEWIS

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IM62/0819

EXAMINER

PRATT, H

ART UNIT

PAPER NUMBER

1761

DATE MAILED:

08/19/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/155740

Applicant(s)

Lewis et al.

Examiner

Pratt, H.

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 2-27-98 Preliminary Amdt.
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1-17 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should include a reference to the method and not the product as there are no product claims.

Information Disclosure Statement

2. Applicants should furnish a copy of the references listed on their PCT form 210 which are not readily available to the office plus an information form listing them.

Claim Rejections - 35 U.S.C. § 103

a. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinwand or Reznik, in view of the prior art.

Steinwand discloses a process of pressing fruit by treating it with a hydroxide solution and then putting the fruit between rollers which will puncture the fruit, which could be grapes, I. e. disrupt the structure of the fruit, and then infusing the fruit with a sugar solution to the desired concentration (page 1, col. 1, lines 15-25 and page 2, ^{col. 3} lines 20-29).

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Reznik discloses a process of hydrating dried fruit such as dates by fissuring the skin of the fruit and then rehydrating with vacuum hydration, (col. 2, lines 63-70, and col. 3, lines 5-29). Claims 1-3 differ from the reference in drying the fruit after the rolling step to a particular moisture content. However, Steinwand discloses that the fruit can be drained and exposed to air as for making a glace fruit (page 3, col. 1, lines 22-32). Also, the specification discloses on pages 1 and 2 that it is known to make foods stable at various moisture levels from 15-50% and an AW of from .60 to .085 (page 1, lines 25-38 and page 2, lines 20-29). The references to Reznik and Steinwand discloses that it is known to process fruits before infusing by fissuring the surfaces and that this process makes the accepts the sugar syrups more rapidly than unpunctured fruit (Steinwand page 1, col. 2, lines 15-25). Therefore, it would have been obvious to fissure the surface of dried fruit for its known function of speeding up hydration of the fruit and then to dry to particular water activities according to the state of the art.

Claim 4 further requires that the uptake of solute is a particular amount and claim 5-8 that the product has a particular dimension and claim 9 that the product is produced in a time of 30 minutes to 4 hours. However, it is seen that it would have been within the skill of the ordinary worker to roll so that the fruit will take in a particular amount of solute because obviously the more fissures the more solute can be taken in. Certainly particular sizes are dependent on the product desired and nothing new is seen in this. Reznik discloses that the distance tween the squeeze rolls is correlated with the size of the fruit units ...”(col. 3, lines 29-34). As the reference to Reznik discloses that it is known to vary the gap of the roller, it would have been within the

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skill of the ordinary worker to vary the roller gap as claimed. Nothing is seen that according to the combined references that the product could not be made in 4 hours as the processing limitation could not be made. Therefore, it would have been obvious to roll to a particular amount in order to increase the amount of solute because more fissures allow a higher uptake of solutes.

The limitations of claims 10-17 have been discussed above and are obvious for those reasons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen Pratt whose telephone number is (703) 308-1978. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Lacey, can be reached on (703) 308-3535. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3602 (unofficial faxes), **after final faxes 703 305 3599, and other official faxes 703 305 7718**. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



HELEN PRATT

PRIMARY EXAMINER

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